

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 914 – SB 987

March 4, 2015

SUMMARY OF ORIGINAL BILL: Authorizes a health, educational, and housing facility corporation of a municipality and an industrial development corporation of a municipality to negotiate and receive payments in lieu of taxes (PILOTs) with respect to a tax-credit housing project from any lessee of the corporation, without any delegation from the municipality, if: such payments are payable to all applicable taxing jurisdictions in which the project is located and are not less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and the chief executive officer of the municipality has executed a letter supporting the project that is filed with the corporation. Authorizes a municipality to adopt an ordinance or resolution requiring that any agreement with respect to PILOTs entered into pursuant to this act must be approved by the municipality.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease Local Revenue – Exceeds \$1,000,000

IMPACT TO COMMERCE OF ORIGINAL BILL:

Decrease Business Expenditures – Exceeds \$1,000,000

SUMMARY OF AMENDMENT (003786): Establishes that nothing in this bill shall limit the authority of a health, educational, and housing facility corporation to negotiate and receive from a lessee of the corporation payment in lieu of taxes with respect to a tax-credit housing project, when such authority has been granted to the corporation by a municipality.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Under current law, municipalities are authorized to delegate to a corporation the authority to negotiate and enter into PILOT agreements with a corporation's lessees, and to require the corporation to submit any such agreement to the legislative body for its approval.

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- Many local governments currently utilize the adjustment of low income housing tax credits as an element of additional value to housing projects receiving such tax credits. Tennessee courts recognize the credits as an indicator of property value that is property considered when assessing the value of low income housing tax credit properties (*Spring Hill, L.P., et al. v. Tennessee State Board of Equalization, et al.* (2003)).
- The proposed legislation will authorize corporations to enter into PILOT agreements, without any delegation from the municipality, unless the municipality adopts an ordinance or resolution requiring any such agreement to be approved by the municipality. It would also require that any such payments are not less than the taxes that would have been paid for the tax year prior to the year the project became a tax-credit housing project.
- The Tennessee Advisory Commission on Intergovernmental Relations' 2015 report on *Valuing Low-Income Housing Tax Credit Properties in Tennessee* states that, in Memphis, where PILOTs have been widely used for low income housing tax credit projects, they generally result in payments that are considerably less than property taxes would be.
- The provisions of this bill will not have a significant fiscal impact to the state government; however, it is anticipated that there will be corporations that will enter into PILOT agreements with respect to tax-credit housing projects as a direct result of this bill, resulting in a recurring decrease in local government property tax collections.
- Due to multiple unknown factors, such as the number of new PILOT agreements that corporations will enter into as a direct result of the proposed legislation, the financial details of such new agreements, and the applicable property tax rates that would be applied to the projects in the absence of such agreements, the recurring decrease in local government revenue cannot be quantified with reasonable certainty.
- However, based on information provided by the Office of the Comptroller and the annual levels of tax credits awarded to housing projects in Tennessee, it is estimated that any such recurring decrease will exceed \$1,000,000.
- There could be secondary economic impacts to local governments should owners of low income tax credit housing projects purchase and develop further projects as a result of the provisions of this bill. However, any such impact cannot be reasonably quantified.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed legislation will, to a large extent, remove uncertainty in property tax valuations for some owners of low income tax credit housing projects by allowing them ability to negotiate their tax liability.
- It is estimated that this bill will reduce tax payments to the local government for such owners in an amount that exceeds \$1,000,000 annually.

- There could be secondary economic impacts if owners of low income tax credit housing projects purchase and develop further projects as a result of the provisions of this bill. However, any such impact cannot be reasonably quantified.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly distinguishable.

Jeffrey L. Spalding, Executive Director

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